

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RATE ADJUSTMENT OF WESTERN	)	
KENTUCKY GAS COMPANY	)	CASE NO. 90-013

O R D E R

This matter having come on for hearing upon motion of the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division, ("Attorney General") filed May 4, 1990 to compel Western Kentucky Gas Company ("Western") to respond more fully to certain identified data requests contained in the Attorney General's supplemental request for information filed April 24, 1990, and to amend the procedural schedule set forth in the Commission's Order of March 7, 1990, both parties having appeared and being represented by counsel, and it appearing to the Commission as follows:

On March 21, 1990, March 28, 1990, and March 30, 1990, the Attorney General, in accordance with the Commission's procedural schedule, served Western with its initial request for information. The requests were contained in three separate filings and consisted of 225 items, plus subparts. After Western responded to the requests, the Attorney General on April 24, 1990, and in accordance with the procedural schedule, served Western with supplemental requests for information. The supplemental request

consisted of 106 items, plus subparts. Western timely responded to the supplemental requests and it is from those responses that the motion to compel was made. In its motion, the Attorney General contended that the responses to 52 of the supplemental items are deficient, in that they are either "unresponsive or nonexistent."

The responses to supplemental data request Items 15c, 15d, 31, 38d, 43a, 82, 84, and 86 were incomplete and Western should be required to furnish all the information requested in these data requests.

The remaining responses upon which this motion is based generally fall into three categories. The first category relates to requests for information which were not derived from information furnished in response to the original requests. Because the requests were not derived from information furnished earlier, Western objected to the requests on the grounds that they were not supplemental. The Attorney General maintains that, regardless of how the information is derived, so long as the requests seek relevant information, Western is required to respond.

The procedural Order clearly states that the supplemental requests for information to Western shall "include only those matters within the scope of the initial request." However, since the requests seek information that is relevant and may lead to evidence that will assist the Commission in determining the fair, just and reasonable rates, Western should be required to respond

to Item 58, 80-86, 88-89, and 94 of the Attorney General's supplemental request.

The second category relates to information contained in records available to the Attorney General for inspection. In Item 88 of its initial data requests, the Attorney General requested a list of the accounting records maintained at Western's corporate offices in Texas and the addresses in Texas and Kentucky where the accounting records for Western were maintained. Item 88 further requested that Western make the records available for inspection. In responding to Item 88 of the initial request, Western agreed to make the records available to the Attorney General.

In its supplemental requests the Attorney General requested information which could be obtained by examining the records that Western agreed to make available for inspection in its response to the original Item 88. Western essentially argues that for the most part, the volume of records in which the information is to be found is very large and that the Attorney General could extract the information it seeks more efficiently because it could exclude information that it did not consider important. In response, the Attorney General contends that if the information he seeks is relevant and in the possession of Western, then Western is obligated to produce the information.

Although the information requested is in Western's possession, Western agreed to make it available to the Attorney General in response to the original data request Item 88. Given the magnitude of the Attorney General's supplemental data requests, and the time constraints imposed upon Western to

respond, it is not unreasonable that Western respond to requests for information in its accounting records by making those records available to the Attorney General in accordance with its earlier response to Item 88 of the original data requests. Since these data request are extremely broad, it will be a burdensome task to inspect the records in order to extract all the information requested. The burden of examining the records would not be as great upon the Attorney General as it would be upon Western, since the Attorney General has the ability to exclude material he considers unimportant. Therefore, Western should not be required to furnish the information that is contained in records that are available for inspection by the Attorney General in accordance with Western's response to the Attorney General's original request Item 88.

The third and final category consists of requests for information which could be derived from information Western previously furnished to the Attorney General. The Attorney General maintains that Western cannot respond to data requests by simply referring to locations in the record where the information can be found.

While it is certainly more convenient for the requests and the information to be together, that convenience is outweighed by the undue burden answering the requests would impose, not only upon the party furnishing the information, but also upon the record by the addition of material which merely duplicates material already there. Therefore, the motion to compel more

specific responses to the data requests where the response refers to material already in the record should also be denied.

Although Western is being required to respond further to some of the data requests, the failure to fully respond to these specified supplemental data requests should not impair the Attorney General's ability to prepare for the hearing in this matter. The motion to amend the procedural schedule, therefore, should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

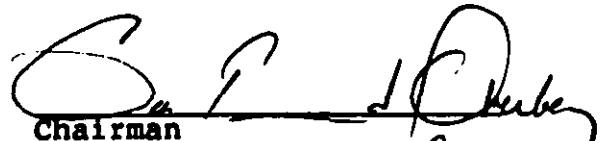
1. Western shall, within 5 days from the date of this Order, supplement its responses to the Attorney General's Supplemental Data Request Items 15c, 15d, 31, 38d, 43a, 58, 80-86, 88, 89, and 94.

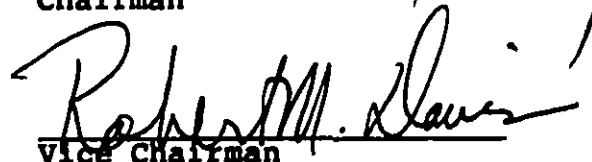
2. The motion to compel Western to respond to the remaining items specifically identified by the Attorney General is denied.

3. The motion to amend the procedural schedule is denied.

Done at Frankfort, Kentucky, this 24th day of May, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

ATTEST:

  
Executive Director

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Commissioner